
SUPPLEMENTAL MATERIAL
FEBRUARY 23, 2005
CITY COMMISSION MEETING

SUPPLEMENTAL MATERIAL

C7 - Resolutions

- C7M A Resolution Approving The Appropriation And Expenditure Of \$30,000 In Concurrency Mitigation Funds/North Beach For General Traffic And Transportation Engineering Consulting Services In North Beach.

(Public Works)
(Resolution)

- C7N A Resolution Waiving, By 5/7ths Vote, Formal Competitive Bidding Requirements, Finding Such Waiver To Be In The Best Interest Of The City, And Authorizing The City Manager, Through His Designee, Who Shall Be The City's Property Management Director, A Licensed General Contractor, To Select, Negotiate, And Award All Contracts, Agreements, Purchase Orders, And Change Orders For The Purchase Of All Necessary Goods And Services (Construction And Professional) Relative To The Richmond Hotel Beachwalk Extension Project; Providing That All Documents Be Reviewed By The Appropriate Members Of The Administration And City Attorney's Office, And Shall Contain Those Minimum Terms And Conditions As Set Forth In This Resolution; And Further Authorizing The Mayor And City Clerk To Execute Any And All Agreements Relative To The Aforestated Project.

(Public Works)
(Resolution)

- C7O A Resolution Waiving, By 5/7ths Vote, Formal Competitive Bidding Requirements, Finding Such Waiver To Be In The Best Interest Of The City, And Authorizing The City Manager, Through His Designee, Who Shall Be The City's Property Management Director, A Licensed General Contractor, To Select, Negotiate, And Award All Contracts, Agreements, Purchase Orders, And Change Orders For The Purchase Of All Necessary Goods And Services (Construction And Professional) Relative To The Structural Floor Replacement Of Fire Station #1 And Fire Station #3 Project; Providing That All Documents Be Reviewed By The Appropriate Members Of The Administration And City Attorney's Office, And Shall Contain Those Minimum Terms And Conditions As Set Forth In This Resolution; And Further Authorizing The Mayor And City Clerk To Execute Any And All Agreements Relative To The Aforestated Project.

(Public Works)
(Resolution)

R7 - Resolutions

- R7D A Resolution Following A Duly Noticed Public Hearing To Hear Public Comment On Same, Approving And Authorizing The Vacation Of An Alley, Containing Approximately 7,800 Square Feet And Located Adjacent To The Proposed AR & J SOBE, LLC (A/K/A Potamkin/ Berkowitz) Project At 5th Street And Alton Road, In Favor Of The Applicant (And Developer Of The Project), AR & J SOBE, LLC; Waiving, By 5/7ths Vote, The Competitive Bidding And Appraisal Requirements, Pursuant To Article II, Section 82-36 Through 82-40 Of The Miami Beach City Code, Finding Such Waiver To Be In The Best Interest Of The City; Provided Further That The City's Approval Of The Aforestated Vacation Is Subject To And Contingent Upon AR & J SOBE, LLC's Satisfaction Of The Conditions Set Forth In This Resolution, And Compliance With The Terms And Conditions Of The Attached Vacation Agreement; Authorizing The Mayor And City Clerk To Execute The Attached Vacation Agreement And Any And All Documents To Effectuate The Vacation, Including A Quitclaim Deed, Subject To Final Review Of Same By The City Attorney's Office.

(Public Works)

(Resolution & Agreement)

- R7H A Resolution Of The Mayor And City Commission Of The City Of Miami Beach, Florida, Approving The Sale Of The City-Owned Waterfront Property Located At 2620 Biarritz Drive, Miami Beach, Florida, To Sheldon Margules, As The Highest Bidder Pursuant To The Auction Of The Property Held On February 18, 2005; And Authorizing The Mayor And City Clerk To Execute The Primary Real Estate Sales Contract By And Between The City And Mr. Margules, For The Purchase Price Of \$1,942,500 (\$1,850,000 High Bid, Plus The 5% Buyer's Premium Of \$92,500); And Further Authorizing The Mayor And City Clerk To Execute The Back-Up Real Estate Sales Contract By And Between The City And Tony Romeo, The Second Highest Bidder, For The Purchase Price Of \$1,916,250 (\$1,825,000 2nd Highest Bid, Plus The 5% Buyer's Premium Of \$91,250); Further Authorizing The Mayor And City Clerk To Execute Any And All Other Documents Necessary To Close Either The Primary Transaction, With Mr. Margules, Or The Back-Up Transaction With Mr. Romeo, The Second Highest Bidder, Should The Closing Of The Sale With The High Bidder On The Primary Transaction Not Be Consumated; Provided Further That The Proceeds From The Sale Of The Aforestated Property Be Utilized For The City's Renovation Of The Normandy Shores Golf Course, Pursuant To The March 9, 2004 Special Election Ballot Question No. 7, Entitled, "Sale Of 2620 Biarritz Drive."

(Asset Management)

(Resolution)

- R7I A Resolution Approving The Miami-Dade Transit (MDT) "Option C" Proposal To Provide An Enhanced Route W Service To Miami Beach; And Authorizing The Administration To Finalize The Required Interlocal Agreement Between County And City For Approval.

(Public Works)

(Resolution)

RESOLUTION NO. _____

**A RESOLUTION OF THE MAYOR AND CITY COMMISSION
OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING
THE APPROPRIATION AND EXPENDITURE OF \$30,000 IN
CONCURRENCY MITIGATION FUNDS/NORTH BEACH FOR
GENERAL TRAFFIC AND TRANSPORTATION
ENGINEERING CONSULTING SERVICES IN NORTH BEACH.**

WHEREAS, the City Commission directed in December 2004, to study the possibility of making one-way northbound the section of Harding Avenue from 69th Street to 72nd Street; and

WHEREAS, in order to perform the study, the City will need to update traffic data in the North Beach general study area; and

WHEREAS, the following projects need to be performed to study Harding Avenue:

1. One-way feasibility evaluation of Harding Avenue, from 69th to 72nd Street, at \$15,920; and
2. Update of traffic counts for North Beach, at approximately \$13,844

WHEREAS, the Miami Beach Concurrency Mitigation/North Beach Fund (CMF) is the appropriate source to fund the above-mentioned project costs.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and City Commission hereby approve the appropriation and expenditure of \$30,000 in Concurrency Mitigation/North Beach Funds for General Traffic and Transportation Engineering consulting services in North Beach.

PASSED AND ADOPTED this the _____ day of _____, 2005.


ATTEST:

MAYOR

CITY CLERK

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**APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION**

 _____
City Attorney Date 2/18/05

Agenda Item C7M
Date 2-23-05

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RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, WAIVING, BY 5/7THS VOTE, FORMAL COMPETITIVE BIDDING REQUIREMENTS, FINDING SUCH WAIVER TO BE IN THE BEST INTEREST OF THE CITY, AND AUTHORIZING THE CITY MANAGER, THROUGH HIS DESIGNEE, WHO SHALL BE THE CITY'S PROPERTY MANAGEMENT DIRECTOR, A LICENSED GENERAL CONTRACTOR, TO SELECT, NEGOTIATE, AND AWARD ALL CONTRACTS, AGREEMENTS, PURCHASE ORDERS, AND CHANGE ORDERS FOR THE PURCHASE OF ALL NECESSARY GOODS AND SERVICES (CONSTRUCTION AND PROFESSIONAL) RELATIVE TO THE RICHMOND HOTEL BEACHWALK EXTENSION PROJECT; PROVIDING THAT ALL DOCUMENTS BE REVIEWED BY THE APPROPRIATE MEMBERS OF THE ADMINISTRATION AND CITY ATTORNEY'S OFFICE, AND SHALL CONTAIN THOSE MINIMUM TERMS AND CONDITIONS AS SET FORTH IN THIS RESOLUTION; AND FURTHER AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE ANY AND ALL AGREEMENTS RELATIVE TO THE AFORESTATED PROJECT.

WHEREAS, the Richmond Hotel section was included as part of the original Beachwalk funding that was approved by Resolution #2002-25068 that awarded RL Saum, in the amount of \$3,269,000, pursuant to Bid No. 70-01/02, for the construction of the Beachwalk Bicycle/Pedestrian Trail Project from 21st Street to Lummus Park, and appropriating \$3,704,000 from Redevelopment Agency Series 96B Tax Increment Bond Fund No. 365, to provide the required construction, project administration, and contingency funding for the Beachwalk Project; and

WHEREAS, during the time when the Florida Department of Environmental Protection issued a proposed order to authorize and approve the City's application for the Beachwalk Project permit, the Wallace Corporation, owner of the Richmond Hotel, opposed; and

WHEREAS, during the dispute of the Wallace Corporation, the project design was amended so that the Beachwalk Project did not cross the Richmond Hotel property, but stopped to the south and resumed to the north of the property; and

WHEREAS, the Florida Department of Environmental Protection has since rejected the Wallace petition and a Notice to Proceed was issued on October 4, 2004, for the completion of the portion of the Beachwalk Project behind the Richmond Hotel; and

WHEREAS, the architectural/engineered plans have been completed and are pending approval by the City's Building Department for required building permits; and

WHEREAS, it is the Administration's intent to secure the construction work relative to the aforestated project utilizing the City's Property Management Director, who is a licensed General Contractor; and

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Date 2-23-05

WHEREAS, The Property Management Director, acting as General Contractor above, may require the need for the acquisition of goods and services which may exceed the \$25,000 threshold correctly within the City Manager's discretion; and

WHEREAS, pursuant to Section 2-367(e) of the City Code entitled *Rejection of bids; negotiation; waiver of competitive bidding*, the City Commission, upon written recommendation of the City Manager, may by resolution adopt by a five-sevenths vote of the City Commission a waiver of competitive bidding when the City Commission finds such waiver to be in the best interest of the City; and

WHEREAS, in order to diligently prosecute the required work to timely complete the aforesated vital public project, the Administration would recommend that the Mayor and City Commission waive, by 5/7ths vote, the formal competitive bidding requirements, relative to enabling the Administration, with its Property Management Director acting as General Contractor, to procure the required goods and services to complete the Project, on an expedited basis; and

WHEREAS, notwithstanding the Mayor and City Commission's waiver herein of the competitive bidding requirement, the Property Management Director, utilizing the resources of the Procurement Division, would institute an "expedited" bidding process to ensure the integrity of the process and, while not formal competitive bidding, a process that would still act to procure for the City the highest quality of goods and services at the least expense to the City, and endeavor to obtain as full and open competition, within that expedited framework, as possible; and

WHEREAS, additionally, the Administration would recommend that the Mayor and City Commission waive formal competitive bidding subject to the terms and conditions set forth below.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA as follows:

1. The Mayor and City Commission herein waive, by 5/7ths vote, the formal competitive bidding requirements, finding such waiver to be in the best interest of the City, relative to the City's (with its Property Management Director acting as General Contractor) completion of the work on the following public project: the Richmond Hotel Beachwalk Extension Project.
2. The City Manager, through his designee, who shall be the City's Property Management Director, is authorized to select, negotiate, and award all contracts, agreements, purchase orders, and change orders for the purchase of all necessary goods and services (construction and professional) relative to the Project.
3. All documents referenced herein shall be reviewed by the appropriate members of the Administration and City Attorney's Office prior to execution and shall contain, at a minimum, the following terms and conditions:
 - a) Time of completion of the work in question.

- b) Fees, costs, and other charges to the City. All fees and costs negotiated should be competitive with fees and charges for similar work in the South Florida area.
 - c) Appropriate provisions addressing insurance requirements (naming the City as an additional insured), indemnification and hold harmless in favor of the City, and payment and performance bonds.
 - d) All scope of services and/or work required shall be prepared in conjunction with and reviewed by the Administration.
4. All contracts, agreements, purchase orders, and change orders over \$25,000 shall be executed by the Mayor and City Clerk, and shall be ratified by the Mayor and City Commission at its next available meeting.
5. The total amounts of contracts, agreements, purchase orders, and change orders to be executed pursuant to the approvals set forth herein shall not exceed the appropriated amount for the Project, as same is set forth in this Resolution, without the prior approval of the Mayor and City Commission.
6. Notwithstanding the waiver of competitive bidding herein, the Property Management Director, utilizing the City's Procurement Division, shall use his best efforts through an "expedited" bidding process to assure that the highest quality of goods and services at the least expense to the City is obtained, and endeavor to obtain as full and open competition, as in said process, as possible.

PASSED AND ADOPTED THIS _____ day of _____, 2001.

Attest:

CITY CLERK

MAYOR

**APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION**


City Attorney

2/18/05
Date

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RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, WAIVING, BY 5/7THS VOTE, FORMAL COMPETITIVE BIDDING REQUIREMENTS, FINDING SUCH WAIVER TO BE IN THE BEST INTEREST OF THE CITY, AND AUTHORIZING THE CITY MANAGER, THROUGH HIS DESIGNEE, WHO SHALL BE THE CITY'S PROPERTY MANAGEMENT DIRECTOR, A LICENSED GENERAL CONTRACTOR, TO SELECT, NEGOTIATE, AND AWARD ALL CONTRACTS, AGREEMENTS, PURCHASE ORDERS, AND CHANGE ORDERS FOR THE PURCHASE OF ALL NECESSARY GOODS AND SERVICES (CONSTRUCTION AND PROFESSIONAL) RELATIVE TO THE STRUCTURAL FLOOR REPLACEMENT OF FIRE STATION #1 AND FIRE STATION #3 PROJECT; PROVIDING THAT ALL DOCUMENTS BE REVIEWED BY THE APPROPRIATE MEMBERS OF THE ADMINISTRATION AND CITY ATTORNEY'S OFFICE, AND SHALL CONTAIN THOSE MINIMUM TERMS AND CONDITIONS AS SET FORTH IN THIS RESOLUTION; AND FURTHER AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE ANY AND ALL AGREEMENTS RELATIVE TO THE AFORESTATED PROJECT.

WHEREAS, the concrete floors in Fire Station #1 and Fire Station #3 have cracked and deteriorated from the heavy equipment that is parked inside the facilities, the need for a structural evaluation was required; and

WHEREAS, BEA International, Inc. was hired from the City's rotational architectural/engineering agreement to provide for a structural evaluation of the floor of the two Fire Stations; and

WHEREAS, the structural evaluation revealed the existing floors of the Fire Stations had inadequate drainage systems that had lead to voids under the concrete slabs and that the concrete slabs were not designed to support the weight of the large fire trucks that are currently used by the Fire Department; and

WHEREAS, BEA International, Inc. was directed to prepare all required calculations and construction documents to provide for a proper drainage system and the structural concrete slabs required to support modern fire trucks and equipment for the two Fire Stations; and

WHEREAS, the architectural/engineered plans will be completed in March and will be reviewed and approved by the City's Building Department for required building permits; and

WHEREAS, it is the Administration's intent to secure the construction work relative to the aforestated project utilizing the City's Property Management Director, who is a licensed General Contractor; and

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Date 2-23-05

WHEREAS, accordingly, the Administration, through the Property Management Director, acting as General Contractor above, may require the need for the acquisition of goods and services which may exceed the \$25,000 threshold correctly within the City Manager's discretion; and

WHEREAS, as a result of the time needed to complete the formal bid processes (i.e. 90-120 days), each time that the Property Management Director has a need to augment its existing resources for goods and services in excess of \$25,000, the project will be placed on hold or delayed significantly; and

WHEREAS, pursuant to Section 2-367(e) of the City Code entitled *Rejection of bids; negotiation; waiver of competitive bidding*, the City Commission, upon written recommendation of the City Manager, may by resolution adopt by a five-sevenths vote of the City Commission a waiver of competitive bidding when the City Commission finds such waiver to be in the best interest of the City; and

WHEREAS, the Property Management Director, as General Contractor, will be taking on the responsibility of completion of the structural floor replacements of Fire Station #1 and Fire Station #3 Project ; and

WHEREAS, in order to diligently prosecute the required work to timely complete the aforesated vital public project, the Administration would recommend that the Mayor and City Commission waive, by 5/7ths vote, the formal competitive bidding requirements, relative to enabling the Administration, with its Property Management Director acting as General Contractor, to procure the required goods and services to complete the Project, on an expedited basis; and

WHEREAS, notwithstanding the Mayor and City Commission's waiver herein of the competitive bidding requirement, the Property Management Director, utilizing the resources of the Procurement Division, would institute an "expedited" bidding process to ensure the integrity of the process and, while not formal competitive bidding, a process that would still act to procure for the City the highest quality of goods and services at the least expense to the City, and endeavor to obtain as full and open competition, within that expedited framework, as possible; and

WHEREAS, additionally, the Administration would recommend that the Mayor and City Commission waive formal competitive bidding subject to the terms and conditions set forth below.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA as follows:

1. The Mayor and City Commission herein waive, by 5/7ths vote, the formal competitive bidding requirements, finding such waiver to be in the best interest of the City, relative to the City's (with its Property Management Director serving as the General Contractor) in the completion of the work on the following public project: The structural floor replacements of Fire Station #1 and Fire Station #3 Project.

2. The City Manager, through his designee, who shall be the City's Property Management Director, is authorized to select, negotiate, and award all contracts, agreements, purchase orders, and change orders for the purchase of all necessary goods and services (construction and professional) relative to the Project.
3. All documents referenced herein shall be reviewed by the appropriate members of the Administration and City Attorney's Office prior to execution and shall contain, at a minimum, the following terms and conditions:
 - a) Time of completion of the work in question.
 - b) Fees, costs, and other charges to the City. All fees and costs negotiated should be competitive with fees and charges for similar work in the South Florida area.
 - c) Appropriate provisions addressing insurance requirements (naming the City as an additional insured), indemnification and hold harmless in favor of the City, and payment and performance bonds.
 - d) All scope of services and/or work required shall be prepared in conjunction with and reviewed by the Administration.
4. All contracts, agreements, purchase orders, and change orders over \$25,000 shall be executed by the Mayor and City Clerk, and shall be ratified by the Mayor and City Commission at its next available meeting.
5. The total amounts of contracts, agreements, purchase orders, and change orders to be executed pursuant to the approvals set forth herein shall not exceed the appropriated amount for the Project, as same is set forth in this Resolution, without the prior approval of the Mayor and City Commission.
6. Notwithstanding the waiver of competitive bidding herein, the Property Management Director, utilizing the City's Procurement Division, shall use his best efforts through an "expedited" bidding process to assure that the highest quality of goods and services at the least expense to the City is obtained, and endeavor to obtain as full and open competition, as in said process, as possible.

PASSED AND ADOPTED THIS _____ day of _____, 2001.

Attest:

CITY CLERK

MAYOR
APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

 2/18/05

City Attorney

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RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, FOLLOWING A DULY NOTICED PUBLIC HEARING TO HEAR PUBLIC COMMENT ON SAME, APPROVING AND AUTHORIZING THE VACATION OF AN ALLEY, CONTAINING APPROXIMATELY 7,800 SQUARE FEET AND LOCATED ADJACENT TO THE PROPOSED AR & J SOBE, LLC (A/K/A POTAMKIN/BERKOWITZ) PROJECT AT 5TH STREET AND ALTON ROAD, IN FAVOR OF THE APPLICANT (AND DEVELOPER OF THE PROJECT), AR & J SOBE, LLC; WAIVING, BY 5/7THS VOTE, THE COMPETITIVE BIDDING AND APPRAISAL REQUIREMENTS, PURSUANT TO ARTICLE II, SECTION 82-36 THROUGH 82-40 OF THE MIAMI BEACH CITY CODE, FINDING SUCH WAIVER TO BE IN THE BEST INTEREST OF THE CITY; PROVIDED FURTHER THAT THE CITY'S APPROVAL OF THE AFORESTATED VACATION IS SUBJECT TO AND CONTINGENT UPON AR & J SOBE, LLC'S SATISFACTION OF THE CONDITIONS SET FORTH IN THIS RESOLUTION, AND COMPLIANCE WITH THE TERMS AND CONDITIONS OF THE ATTACHED VACATION AGREEMENT; AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE THE ATTACHED VACATION AGREEMENT AND ANY AND ALL DOCUMENTS TO EFFECTUATE THE VACATION, INCLUDING A QUITCLAIM DEED, SUBJECT TO FINAL REVIEW OF SAME BY THE CITY ATTORNEY'S OFFICE.

WHEREAS, on June 7, 2000, the Mayor and City Commission adopted Resolution No. 2000-23963, designating the area bounded by 6th Street to the North, 5th Street to the South, Alton Road to the West, and Lenox Avenue to the East, as a Brownfield area to promote the environmental restoration and economic redevelopment of the area; and

WHEREAS, since July 2002, the Administration has been meeting with representatives of the site generally located on 5th Street and Alton Road, owned by the Potamkin family, to address a joint development opportunity and to review a preliminary site plan for a five (5) level mixed-use retail complex, including approximately 1081 parking spaces and a supermarket (the Project); and

WHEREAS, in accordance with the City Commission's directive and the community's identified needs, the City's interest in the Project development is primarily focused on achieving the respective public benefits of locating a supermarket, exploring transit and excess parking opportunities, and developing a gateway project, at one of the City's main arterial entryways; and

WHEREAS, over the past two (2) years, the proposed Project has been reviewed on several occasions by various City Committees including Finance & Citywide Projects Committee, Transportation and Parking Committee, Design Review Board, and Historic Preservation Board; and

WHEREAS, the City is the holder of a public right-of-way easement and an alley adjacent to the Project, containing approximately 7,800 square feet (the Alley); and

WHEREAS, in consideration of the public benefits being provided by Developer in the Project, the Developer has made a request and submitted an application, in accordance with the City's Guidelines for Vacation or Abandonment of Streets or Other Rights of Way, and pursuant to Section 82-36 through 82-40 of the City Code (Ordinance No. 92-2783), for vacation of the Alley; and

WHEREAS, pursuant to Resolution No. 2005-25805, and as required by Section 82-37 of the City Code, the Mayor and City Commission held a duly noticed public hearing on February 23, 2005, to hear public comment regarding the proposed Alley vacation; and

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Date 2-23-05

WHEREAS, additionally, as required by Section 82-38 of the City Code, a Planning Department Analysis has been prepared with regard to the proposed Alley vacation; said analysis is attached and incorporated as Exhibit "A" to this Resolution; and

WHEREAS, the Administration would recommend that the Mayor and City Commission approve the requested Alley vacation in favor of the Developer, AR & J SOBE, LLC, subject to and contingent upon the Developer's satisfaction of the following conditions:

- 1) AR & J SOBE, LLC's full compliance with the terms and conditions of the Vacation Agreement, by and between the City and AR & J SOBE, attached and incorporated as Exhibit "B" hereto;
- 2) In addition to AR & J SOBE's compliance with the terms and conditions of the attached Vacation Agreement, that the proposed Alley Vacation be subject to the following possible reverter and/or reconveyance provisions:
 - (i) In the event Developer does not enter into a supermarket lease (as defined in the attached Vacation Agreement) on or before eighteen (18) months after the Effective Date of the Vacation Agreement or Commencement of Construction, as defined therein, whichever comes first;
 - (ii) In the event Developer does not Commence Construction of the Project on or before September 1, 2006, subject to extension for Unavoidable Delays;
 - (iii) In the event the Project is substantially modified from the Project approved by the Historic Preservation Board and Design Review Board, as referenced in the respective Board Orders issued in August 2004 (interior reconfigurations to change or reduce parking areas and/or add/reconfigure leaseable space shall not be deemed a modification of the Project approved as aforesaid, except where any such interior reconfigurations (i) may result in a change to the Project Floor Area Ratio (F.A.R.) beyond that which is permitted as of the Effective Date of the Vacation Agreement, and/or (ii) may result in a modification to the Project exterior façade/elevations from those approved in the attached August 2004 Board orders);
 - (iv) Provided City has timely exercised its option to purchase same, in the event that Developer does not dedicate and convey the Transit Facility Dedication Area to the City on or before the Commencement of Construction.

The City shall not be obligated to fund any costs of Developer's Project construction costs (hard and/or soft costs) except if it elects to acquire the Transit Facility Dedication Area and have Developer install the Transit Facility Dedication Area Finishes (as defined in the Vacation Agreement) and/or Elevator, as provided in the Vacation Agreement. In the event that the cost of construction of the Transit Facility Dedication Area, Transit Facility Dedication Area Finishes, and (should the City so opt) the Elevator exceed the City's contribution(s) for same, as set forth in this Vacation Agreement, Developer shall be solely responsible for payment of, and shall pay, all excess costs.

The amount to be paid by City at the time of dedication shall be the maximum amount that Developer could be entitled to, but Developer shall, within thirty (30) days after Substantial Completion of the Project, provide to City a reconciliation of the actual hard and soft costs of the Transit Facility Dedication Area Finishes and Elevator and a check for any refund owed to City on account thereof.

The City shall fund its contribution to the Transit Facility Dedication

Area, Transit Facility Dedication Finishes, and (should it so opt) the Elevator at the time of the dedication and conveyance of the Transit Facility Dedication Area to the City, which will take place no later than the Commencement of Construction of the Project and the issuance by the City Manager of the recordable instrument(s) stating that the Conditions provided for in Paragraph 4 of the Vacation Agreement have occurred, such that no further reversion of the Alley to the City is possible; and

WHEREAS, the City's Public Works Department has received and reviewed the Developer's application for vacation of the Alley, and has determined that the Developer has complied with the submission requirements therein; and

WHEREAS, additionally, as permitted by Section 82-39 of the City Code, the Administration would recommend that the Mayor and City Commission waive, by 5/7ths vote, the competitive bidding and appraisal requirements, finding that the public interest would be served by such waiver.

NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and City Commission, following a duly noticed public hearing to hear public comment on same, approve and authorize the vacation of an Alley, containing approximately 7,800 square feet and located adjacent to the proposed AR & J SOBE, LLC (a/k/a Potamkin/Berkowitz) Project at 5th Street and Alton Road, in favor of the Applicant (and Developer of the Project), AR & J SOBE, LLC; waiving, by 5/7ths vote, the competitive bidding and appraisal requirements, pursuant to Article II, Section 82-36 through 82-40 of the Miami Beach City Code, finding such waiver to be in the best interest of the City; provided further that the City's approval of the aforestated Alley vacation is subject to and contingent upon AR & J SOBE, LLC's satisfaction of the conditions set forth in this Resolution, and compliance with the terms and conditions of the attached Vacation Agreement; authorizing the Mayor and City Clerk to execute the attached Vacation Agreement and any and all documents to effectuate the Alley vacation, including a quit claim deed, subject to final review of same by the City Attorney's office.

PASSED and ADOPTED this _____ day of _____, 2005.

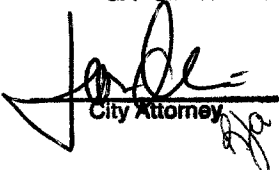
ATTEST:

CITY CLERK

MAYOR

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**APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION**



City Attorney

2/22/05
Date

VACATION AGREEMENT

THIS VACATION AGREEMENT (the Agreement) is entered into as of this _____ day of _____, 2005 between the **CITY OF MIAMI BEACH, FLORIDA** (City) and **AR & J SOBE, LLC**, a Florida Limited Liability Company ("Developer").

RECITALS:

A. Developer anticipates constructing a project (the "Project") on the land bordered by 5th Street, 6th Street, Alton Road and Lenox Avenue (which includes the Alley, as defined below) containing a grocery store and other retail, commercial, office and/or restaurant uses and parking garage.

B. In connection therewith, Developer has requested a vacation of City's rights to the Alley (as hereafter defined).

C. Developer and City have reached agreement as to the terms and conditions for vacating the Alley.

NOW, THEREFORE, in consideration of the sum of ten (10) dollars and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in further consideration of the mutual covenants and obligations hereinafter set forth, the parties do hereby agree as follows:

1) **Recitals**

The foregoing Recitals are true and correct and are incorporated herein by reference.

2) **Definitions**

Alley – means that certain parcel of property subject to a right-of-way easement held by the City containing approximately 7,800 square feet and legally described on Exhibit A, attached hereto.

Grocery Lease – means a binding lease entered into by Developer having a minimum term of ten (10) years for not less than 40,000 square feet of retail area within the Project with a national or regional grocery supermarket chain which will unconditionally (subject to customary contingencies for Substantial Completion, as that term is customarily defined by the chief building official of the City of Miami Beach, and performance by Developer of its construction obligations under the Grocery Lease) obligate the tenant to initially open for business as a

grocery supermarket in the entire leased premises upon completion of the Project.

Commence Construction or Commencement of Construction – means the commencement of major work (such as installing pilings or pouring foundations) for the construction of the Project. Any and all preliminary site work (including, without limitation, any environmental remediation and ancillary demolition or site preparation work, including installation of forms for foundations) shall not be deemed to be Commencement of Construction.

Unavoidable Delays – means delays due to strikes, slowdowns, lockouts, acts of God, inability to obtain labor or materials, war, enemy action, civil commotion, fire, casualty, catastrophic weather conditions, eminent domain, a court order which actually causes a delay (unless resulting from disputes between or among the party alleging an Unavoidable Delay, present or former employees, officers, members, partners or shareholders of such alleging party or affiliates (or present or former employees, officers, partners, members or shareholders of such affiliates) of such alleging party, unusual permitting or inspection delay, or another cause beyond such party's control or which, if susceptible to control by such party, shall be beyond the reasonable control of such party. Such party shall use reasonable good faith efforts to provide notice to the other party not later than ten (10) days after such party knows of the occurrence of an Unavoidable Delay; provided, however, that either party's failure to notify the other of the occurrence of an event constituting an Unavoidable Delay within such ten (10) day period shall not alter, detract from or negate its character as an Unavoidable Delay or otherwise result in the loss of any benefit or right granted to the delayed party under this Agreement. In no event shall (i) any party's financial condition or inability to fund or obtain funding or financing constitute an Unavoidable Delay with respect to such party, and (ii) any delay arising from a party's (or its affiliate's) default under this Agreement constitute an Unavoidable Delay with respect to such party's obligations hereunder. The times for performance set forth in this Agreement (other than for monetary obligations of a party) shall be extended to the extent performance is delayed by Unavoidable Delay, except as otherwise expressly set forth in this Agreement.

3) Transit Facility Dedication Area and Transit Facility Dedication Area Finishes; Elevator

(a) The Transit Facility Dedication Area shall be a transit element which, at City's option, shall be dedicated and conveyed to the City, and designed and constructed by Developer, initially intended to be used as a mass transit intermodal stop/pedestrian waiting area.

The parties agree that the City shall have the option, but not the obligation, to purchase the Transit Facility Dedication Area for the sum of \$ 333,333 (which sum represents an agreed upon amount by the parties to compensate Developer for the loss of rentable space within the Project as a result of the inclusion of the Transit Facility Dedication Area). If, but only if, the City exercises its option to acquire the Transportation Dedication Area Developer shall be obligated to construct the Transit Facility Dedication Area and the Transit Facility Dedication Area Finishes, as described in Exhibit C, attached hereto, as part of the Project and City shall be obligated to make the contributions for such items as set forth herein.

The City's option to purchase the Transit Facility Dedication Area shall commence upon receipt of written notice from the Developer; provided, however, that Developer shall deliver such written notice not later than Commencement of Construction. Thereafter, the City shall have forty-five (45) days from receipt of said written notice to exercise its option to purchase the Transit Facility Dedication Area (and if City does not exercise its option within such 45 day period, the option shall be deemed waived).

The Transit Facility Dedication Area shall be located at the northwest corner of the Project, the legal description of which will be prepared prior to conveyance to reflect the area noted and labeled in Exhibit B, attached hereto, but only between the height of street grade and approximately 11 feet above street grade (it being understood and agreed that Developer shall retain the portions below grade for underground footings, foundations, utilities and the like, and shall retain the portion above approximately 11 feet for improvements to be located over the Transit Facility Dedication Area).

If the City exercises its option to acquire the Transit Facility Dedication Area, Developer shall design the Transit Facility Dedication Area, and the Transit Facility Dedication Area Finishes and shall complete construction thereof prior to Substantial Completion of the Project. The Transit Facility Dedication Area Finishes shall include those items described on Exhibit C hereto.

(b) At the City's option, such option to be exercised within forty-five (45) days of receipt of written notice from the Developer (but Developer shall deliver such notice not later than Commencement of Construction), the Developer shall also design and construct an additional Elevator Pit and Shaft within the Project and install an elevator therein to service the Transit Facility Dedication Area (hereinafter referred to as the Elevator) and shall execute and deliver an easement as hereinafter specified. If City does not exercise its option within such 45 day period, the option shall

be deemed waived. If City exercises its option, Developer shall complete construction of the Elevator prior to Substantial Completion of the Project.

(c) The City's contributions for the (i) Transit Facility Dedication Area and Transit Facility Dedication Area Finishes and (ii) the Elevator, shall be as follows:

- i) If City exercises its option to acquire the Transit Facility Dedication Area, City shall pay a Purchase Price, in the amount of \$333,333, for Transit Facility Dedication Area, which shall be the extent of the City's contribution for the land (based on the loss of rentable retail footage to accommodate the area), plus City will fund a total amount equal to the actual hard and soft costs of the Transit Facility Dedication Area Finishes, not to exceed \$118,204.80.
- ii) If City exercises its option to acquire the Elevator, the City will fund a total amount equal to the actual hard and soft costs pertaining to the Elevator, not to exceed \$356,187.60.

The City shall not be obligated to fund any other costs of Developer's Project (hard and/or soft costs). In the event that the cost of construction of the Transit Facility Dedication Area, Transit Facility Dedication Area Finishes and the Elevator exceed the City's contribution(s) for same, as set forth in this Agreement, Developer shall be solely responsible for payment of, and shall pay, all excess costs.

The amount to be paid by City at the times hereinafter specified shall be computed based upon the maximum amount that Developer could be entitled to receive under the terms of this Agreement, but Developer shall, within thirty (30) days after Substantial Completion of the Project, provide to City a reconciliation of (and City shall have the right to review and confirm) the actual hard and soft costs of the Transit Facility Dedication Area Finishes and Elevator and Developer shall within such thirty (30) day period provide payment to City for any refund owed to City on account thereof.

The City shall fund its contribution to the Transit Facility Dedication Area, at the time (the "Conveyance Date") of the dedication and conveyance of the Transit Facility Dedication Area to the City, which will take place no later than the Commencement of Construction of the Project and the issuance by the City Manager of the recordable instrument(s) stating that the Conditions provided for in Paragraph 4 of this Agreement have occurred, such that no further reversion of the Alley to the City is possible. City shall fund its contribution to the Transit Facility Dedication Area Finishes as follows: 50% upon the Conveyance Date and 50% upon

completion of the Transit Facility Dedication Area Finishes. City shall fund its contribution to the Elevator as follows: 50% upon the Conveyance Date and 50% upon the date that the Elevator is completed and is placed in operation.

The form of the dedication and conveyance of the Transit Facility Dedication Area shall be by Deed, a copy of which is attached hereto as Exhibit O.

The parties shall address and agree upon their respective maintenance obligations regarding the Transit Facility Dedication Area, the Transit Facility Dedication Area Finishes, and the Elevator no later than the Commencement of Construction of the Project.

4) Conditions for Reverter of Alley

The Alley shall automatically and without further action revert to City, but in confirmation thereof Developer shall promptly, on written demand, execute and deliver to City a Quit Claim Deed (subject to no liens on encumbrances created by through or under Developer or its successors in title), if any of the following Conditions (the Conditions) shall occur (the City Manager is authorized and directed to promptly confirm by recordable instrument signed by the City Manager that any or all of the Conditions have been satisfied, if such by the case):

- a. In the event that Developer shall not have entered into a Grocery Lease, as that term is defined in Paragraph 2 of this Agreement, (i) on or before the Outside Date (which shall be defined as the date which is eighteen (18) months after the effective date of this Agreement or the date of Commencement of Construction (the Construction Commencement Date), whichever is earlier), which unconditionally (except for typical contingencies for Substantial Completion and performance by Developer of its construction obligations under the Grocery Lease) obligates Developer to lease not less than 40,000 square feet (although approximately 44,000 square feet is contemplated) to a national or regional grocery store for use as a grocery supermarket and which obligates the tenant (under the Grocery Lease) to initially open for business as a grocery supermarket in the entire Grocery Lease Premises upon substantial completion of construction; or
- b. In the event Developer shall not have Commenced Construction of the Project on or before September 1st,

2006, subject to extension for Unavoidable Delays, or the first construction draw funding of Developer's Project construction loan has not occurred within six (6) months after Commencement of Construction, subject to extension for Unavoidable Delays (but, in respect to the condition for funding of the first Project construction draw, the reverter of the Alley shall abate as long as construction is proceeding and shall be deemed waived upon funding of the first Project construction draw, whenever it occurs); or

- c. In the event the Project is substantially modified from the Project approved by the Historic Preservation Board and Design Review Board, as referenced in the respective Board orders issued in August 2004, and attached as Exhibits ___, and ___ hereto (interior reconfigurations to change or reduce parking areas and/or add/reconfigure leaseable space shall not be deemed a modification of the Project approved as aforestated, except where any such interior reconfigurations (i) may result in a change to the Project Floor Area Ratio (F.A.R.) beyond that which is permitted as of the Effective Date of this Agreement, and/or (ii) may result in a modification to the Project exterior façade/elevations from those approved in the attached August 2004 Board orders). Notwithstanding the preceding sentence, nothing in this Agreement shall be deemed or construed to relieve and/or release the Project from future jurisdiction of any City regulatory authority, including but not limited to the Historic Preservation and/or Design Review Board ; or
- d. Provided City has timely exercised its option to purchase same and tenders payment for same, in the event that Developer does not dedicate and convey the Transit Facility Dedication Area to the City on or before the Commencement of Construction.

5) Utilities

Developer shall, at its sole cost and expense, be responsible for (i) the relocation and/or removal of any utilities currently occupying the Alley; or (ii) making such other arrangements, such as the granting of utility easements, as may be required by the owners of utility equipment currently occupying the Alley.

6) Bond

Developer shall require that its General Contractor provide a Payment and Performance Bond for the Project. Developer shall deliver evidence of the existence of the Payment and Performance Bond for the Project to the City prior to the issuance of the Building Permit for the Project.

7) Vacation Notice and Quit Claim Deed

The City shall properly execute a Notice of Vacation of Alley in a form to be recorded in the Public Records of Miami-Dade County, Florida, along with a Quit Claim Deed evidencing the vacation of the Alley, and shall deliver the Notice and the Quit Claim Deed to the Escrow Agent as provided in Paragraph 8, as soon as practicable following approval of the Vacation of the Alley and of this Agreement by the Mayor and City Commission, but in no event later than the Commencement of Construction for the Project.

8) Escrow

The City Attorney's Office shall act as Escrow Agent and shall hold all of the documents provided for in this Agreement and shall not deliver said documents to either party until the requirements of this Agreement have been met, where upon such documents shall be promptly delivered to the party for whose benefit they were given.

Following approval of the Vacation of the Alley and of this Agreement by the Mayor and City Commission, but in no event later than the Commencement of Construction for the Project, Developer shall deliver the following documents to the City Attorney's Office:

- 1) A Quit Claim Deed for the Transit Facility Dedication Area, if City elects to require same.
- 2) A non-exclusive easement, in form and substance reasonably acceptable to the City and Developer, for the Elevator and public access thereto, if City elects to have Developer install the Elevator.

The City shall deliver the following documents to the City Attorney's Office:

- 1) Notice of Vacation of the Alley
- 2) Quit Claim Deed for the Alley
- 3) Full payment of the purchase price for the Transit Facility Dedication Area and full payment for the costs of installing the Transit Facility Dedication Area Finishes Bus Stop and

Elevator, to the extent City has elected to require/have Developer install same.

In the event that any of the Conditions have not been satisfied within the time frames permitted by this Agreement, or that any of Developer's required documents required pursuant to this paragraph have not been delivered to the City Attorney's Office within the time period specified herein, then the City Attorney's Office shall return the documents to the party that initially executed the documents and the vacation of the Alley shall be deemed null and void, and the City and Developer shall have no liability to each other, and each party shall be responsible for its own cost.

9) Costs

The Developer shall be responsible for the cost of documentary stamps and/or other tax imposed on the conveyances contemplated by this Agreement.

10) Documentation

The parties hereto warrant and represent to each other that they and the individuals executing this Agreement and any documentation used to affect the intent hereof have full power and authority to enter into this Agreement and to execute the documentation used herein on behalf of their respective party. Each party shall execute and deliver to the other party such documentation as either party may reasonably request from time to time to affect the terms and intent of this Agreement.

11) Attorney's Fees

In the event either party brings an action to enforce this Agreement, the prevailing party shall be entitled to recover all costs and reasonable attorney's fees incurred in pursuing such action including cost and fees on appeal.

12) Binding Agreement

This Agreement shall be binding upon and shall inure to the benefit of the parties hereto, their successors and assigns.

13) Notices

All notices, consents, waivers, directions, requests or other instruments of communications provided for under this Agreement, shall be deemed properly given if, and only if, delivered personally or sent by registered or certified U.S. mail, postage pre-paid, as follows:

IF TO CITY:

City of Miami Beach
1700 Convention Center Drive
Miami Beach, Florida 33139
Attention: City Manager

With copies to:

City of Miami Beach
1700 Convention Center Drive
Miami Beach, Florida 33139
Attention: City Attorney

IF TO DEVELOPER:

AR & J SOBE, LLC
c/o Berkowitz Development
2665 So. Biscayne Drive
Suite 1200
Coconut Grove, Florida 33133
Attention: Jeffrey L. Berkowitz

With copies to:

David E. Sacks, Esquire
Pathman Lewis, LLP
One Biscayne Tower, Suite 2400
Two So. Biscayne Blvd.
Miami, Florida 33131

The Developer and the City may change the above mailing address at any time upon giving the other party written notification. All notices under this Agreement must be in writing.

14) Governing Law and Exclusive Venue

This Agreement shall be governed by, and construed in accordance with, the laws of the State of Florida, both substantive and remedial, without regard to principles of conflict of laws. The exclusive venue for any litigation arising out of this Agreement shall be Miami-Dade County, Florida, if in state court, and the U.S. District Court, Southern District of Florida, if in federal court. BY ENTERING INTO THIS AGREEMENT, DEVELOPER AND CITY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO, OR ARISING OUT OF, THIS AGREEMENT.

IN WITNESS WHEREOF, City and Developer intending to be legally bound, have executed this Vacation Agreement as of the day and year first above written.

WITNESSES:

**CITY OF MIAMI BEACH,
FLORIDA,** a municipal
corporation of the State of Florida

Print Name_____

By: _____
David Dermer, Mayor

Print Name_____

ATTEST:

Print Name_____

By: _____
Robert Parcher, City Clerk

Print Name_____

[SEAL]

STATE OF FLORIDA)
) SS:
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this _____ day of _____, 2005, by David Dermer, as Mayor, and Robert Parcher, as City Clerk, of the CITY OF MIAMI BEACH, FLORIDA, a municipal corporation of the State of Florida, on behalf of such municipal corporation. They are personally known to me or produced valid Florida driver's licenses as identification.

Notary Public

Print Name

My Commission Expires:

WITNESSES:

AR&J SOBE PARTNERS LLC, a
Florida limited liability company, by
Berkowitz Limited Partnership, its
manager by Berkowitz, LLC, its general
partner

Print Name _____

By: _____
Jeffrey L. Berkowitz, Manager

Print Name _____

STATE OF FLORIDA)
) SS:
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this _____ day of _____, 2005, by Jeffrey L. Berkowitz, as manager of Berkowitz, LLC, as general partner of Berkowitz Limited Partnership, as manager of AR&J SOBE, LLC, a Florida corporation, a Florida limited liability company, on behalf of such limited liability company. He is personally known to me or produced a valid Florida driver's license as identification.

Notary Public

Print Name

My Commission Expires:

EXHIBIT "A"

ALLEY

EXHIBIT B

TRANSIT FACILITY DEDICATION AREA

EXHIBIT C

TRANSIT FACILITY DEDICATION AREA FINISHES

EXHIBIT D

FORM OF DEED FOR DEDICATION

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING THE SALE OF THE CITY-OWNED WATERFRONT PROPERTY, LOCATED AT 2620 BIARRITZ DRIVE, MIAMI BEACH, FLORIDA, TO SHELDON MARGULES, AS THE HIGHEST BIDDER PURSUANT TO THE AUCTION OF THE PROPERTY HELD ON FEBRUARY 18, 2005; AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE THE PRIMARY REAL ESTATE SALES CONTRACT BY AND BETWEEN THE CITY AND MR. MARGULES, FOR THE PURCHASE PRICE OF \$1,942,500 (\$1,850,000 HIGH BID, PLUS THE 5% BUYER'S PREMIUM OF \$92,500); AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE THE BACK-UP REAL ESTATE SALES CONTRACT BY AND BETWEEN THE CITY AND TONY ROMEO, THE SECOND HIGHEST BIDDER, FOR THE PURCHASE PRICE OF \$1,916,250 (\$1,825,000 2ND HIGHEST BID, PLUS THE 5% BUYER'S PREMIUM OF \$91,250); FURTHER AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE ANY AND ALL OTHER DOCUMENTS NECESSARY TO CLOSE EITHER THE PRIMARY TRANSACTION, WITH MR. MARGULES, OR THE BACK-UP TRANSACTION WITH MR. ROMEO, THE SECOND HIGHEST BIDDER, SHOULD THE CLOSING OF THE SALE WITH THE HIGH BIDDER ON THE PRIMARY TRANSACTION NOT BE CONSUMATED; PROVIDED FURTHER THAT THE PROCEEDS FROM THE SALE OF THE AFORESTATED PROPERTY BE UTILIZED FOR THE CITY'S RENOVATION OF THE NORMANDY SHORES GOLF COURSE, PURSUANT TO THE MARCH 9, 2004 SPECIAL ELECTION BALLOT QUESTION NO. 7, ENTITLED, "SALE OF 2620 BIARRITZ DRIVE"

WHEREAS, on December 10, 2003, the Mayor and City Commission adopted Resolution No. 2003-25440, approving the submission of a ballot question to the electorate, asking whether the City-owned property at 2620 Biarritz Drive (the "Property") should be sold and the proceeds applied to the renovation of the Normandy Shores Golf Course; and

WHEREAS, on March 9, 2004, during Miami-Dade County's Presidential Preference Primary Elections ballot, the voters of the City of Miami Beach were presented with seven City ballot questions, including Ballot Question No. 7 entitled, "Sale of 2620 Biarritz Drive", which read:

"Shall the City of Miami Beach sell waterfront property located at 2620 Biarritz Drive in Miami Beach, Florida (survey and legal description of property on file in City's Public Works Department), with the sale proceeds to be utilized for the City's renovation of the Normandy Shores Golf Course?" ;

and

WHEREAS, the matter was approved by a majority of the voters; and

WHEREAS, the most recent appraisal, as updated, prepared by Integra Realty

Agenda Item R7H

Date 2-23-05

Resources determined the market value of the Property at \$1,025,000, as of January 2005; and

WHEREAS, after recommendation from the Finance and Citywide Projects Committee, the Mayor and City Commission, at its June 9, 2004 meeting, authorized the issuance of a Request for Proposals (RFP) to procure the services of an auctioneer to sell the Property to the highest bidder; and

WHEREAS, pursuant to RFP No. 30-03/04 and, after a selection/evaluation committee process, on October 13, 2004, the Mayor and City Commission directed the Administration to enter into negotiations with the top-ranked firm of Fisher Auction Co. Inc., which were successfully concluded; and

WHEREAS, the Property was offered for sale, "As Is" and "Where Is", at auction, on February 18, 2005 at 3:00 P.M. at ; and

WHEREAS, Fisher Auction Company reported that there were 43 registered bidders at the time of the auction; and

WHEREAS, a high bid price of \$1,850,000 (plus a 5% Buyer's Premium of \$92,500), was proffered by Sheldon Margules, through his registered broker; and

WHEREAS, the next highest bidder, Tony Romeo, through his registered broker, proffered a bid price of \$1,825,000 (plus a 5% Buyer's Premium of \$91,250); and

WHEREAS, a Primary Real Estate Sales Contract was executed on behalf of Sheldon Margules, through a power of attorney, by his registered broker, and a Back-Up Real Estate Sales Contract was executed on behalf of Tony Romeo, through a power of attorney by his registered broker; and

WHEREAS, both the Primary and Back-up Real Estate Sales Contracts require approval by the Mayor and City Commission and execution by the Mayor and City Clerk; and

WHEREAS, the City Administration recommends approval and execution of the attached Primary Contract, as well as the attached Back-Up Contract, in the event the Primary Contract does not close; and

NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and City Commission hereby approve the sale of the City-owned property, located at 2620 Biarritz Drive, Miami Beach, Florida, to Sheldon Margules, as the highest bidder pursuant to the auction of the Property held on February 18, 2005; authorize the Mayor and City Clerk to execute the attached Primary Real Estate Sales Contract by and between the City and Mr. Margules, for the purchase price of \$1,942,500 (\$1,850,000 high bid, plus the 5% buyer's premium of \$92,500); authorize the Mayor and City Clerk to execute the Back-Up Real Estate Sales Contract by and between the City and Tony Romeo, the second highest bidder, for the purchase price of \$1,916,250 (\$1,825,000 2nd highest bid, plus the 5% buyer's premium of \$91,250); further authorize the Mayor and City Clerk to execute any and all other documents necessary to close either the primary transaction, with Mr.

Margules, or the back-up transaction with Mr. Romeo, the second highest bidder, should the closing of the sale with the high bidder on the primary transaction not be consummated; and provide further that the proceeds from the sale of the aforesated Property be utilized for the City's renovation of the Normandy Shores Golf Course, pursuant to the March 9, 2004 Special Election Ballot Question No. 7, entitled, "Sale of 2620 Biarritz Drive".

PASSED and ADOPTED this 23rd day of February, 2005.

ATTEST:

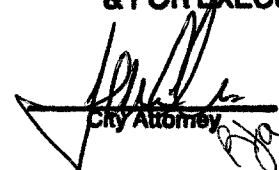
CITY CLERK

MAYOR

JMG\CMC\JD\r/r

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**APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION**



City Attorney

2-22-05

Date

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RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING THE MIAMI-DADE TRANSIT (MDT) "OPTION C" PROPOSAL TO PROVIDE AN ENHANCED ROUTE W SERVICE TO MIAMI BEACH; AND AUTHORIZING THE ADMINISTRATION TO FINALIZE THE REQUIRED INTERLOCAL AGREEMENT BETWEEN THE COUNTY AND CITY FOR APPROVAL.

WHEREAS, In 2003, the Mayor and Commission of the City of Miami Beach requested that the Administration negotiate a transfer of the Electrowave Shuttle Service to Miami Dade Transit (MDT); and

WHEREAS, the City also requested that MDT provide an enhanced Route W proposal that would provide a bi-directional loop service to Miami Beach, while maintaining the characteristics and identity of the service presently delivered by the City's Electrowave Shuttle; and

WHEREAS, pursuant to the above negotiations and in response to the City request, MDT submitted four service options for consideration; and

WHEREAS, the MDT-proposed Option C would deliver the best service per cost, by operating ten buses on the enhanced, bi-directional loop route, with headways of 10 minutes during peak-hour service and 20 minutes off-peak; and

WHEREAS, the total cost of first year operations would be \$2,587,726, and shared at \$500,000 by PTP funds/Miami Beach; \$685,000 in Miami Beach Transportation Concurrency funds, and \$1,405,301 in MDT funds; and

WHEREAS, an Interlocal Agreement between the County and City is required for such Service.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and City Commission hereby approve the Miami-Dade Transit (MDT) "Option C" proposal to provide an enhanced Route W service to Miami Beach; and authorize the Administration to finalize the required Interlocal Agreement between the County and City for approval.

PASSED AND ADOPTED this the _____ day of _____, 2005.

ATTEST:

MAYOR

CITY CLERK

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APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

Agenda Item R7I
Date 2-23-05

David P. [Signature] 2/18/05
City Attorney Date

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